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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,365	02/06/2002	Tony Vachon	12888	9980

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Orum & Roth
53 West Jackson Boulevard
Chicago, IL 60604

EXAMINER

UPTON, CHRISTOPHER

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 06/30/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

049365

Applicant(s)

Vachon

Examiner

Upton

Group Art Unit

1724

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-28 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☒ Claim(s) 1-9 is/are allowed.
- ☒ Claim(s) 10-28 is/are rejected.
- ☒ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☒ All ☐ Some* ☐ None of the:

- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____

☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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1. Claims 10-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 10-28, the recitations of controlling the pumps are functional language, and should be expressed in proper means-plus-function form to give weight to the function. Also, "may be" renders the claims vague and indefinite.

In claim 28, it appears that the sludge and scum should be pumped into the second reservoir, not the first.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 27 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Andersen.

Andersen discloses a system for separate suctioning of useable and non-useable liquids from a storage tank, with return of the useable liquid and a filter (18), as claimed. While Andersen is not disclosed as being used for septic tank recuperation, it is submitted that this is intended use language failing to limit the structure claimed.

4. Claims 1-9 are allowed.

The recitation of recuperation of a septic tank by transferring a portion of the supernatant into a first reservoir, transferring the remainder into a second reservoir, filtering the supernatant, and returning the supernatant to the septic tank patentably distinguishes over the prior art of record.

5. Claims 10-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

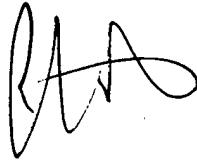
The recitation of a system for recuperation of a septic tank having a first reservoir, a second reservoir, a filter for the first reservoir, either a bidirectional pump connected as recited in claim 10 or a pump associated with each reservoir as recited in claim 18; and a control means for pumping and filtering into the first reservoir, pumping into the second reservoir, and returning filtered liquid to the tank patentably distinguishes over the prior art of record.

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6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

References of interest include Petretti, Flynn, Perron, Larsson, Vanderslice, Woodall, Schmidt, Sinz, Moos, Rupp, Wurster, Fisco, Foss and Berning.

7. Any inquiry concerning this communication should be directed to Christopher Upton at telephone number (703) 308-3741.

A handwritten signature in black ink, appearing to be 'CU' or similar, written in a cursive style.

**CHRISTOPHER UPTON
PRIMARY EXAMINER**